JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

October Term, A. D. 1966

No. 1243

DONALD L. JACKSON,

Petitioner,

v.

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO COURT OF APPEALS, STATE OF NEW YORK

DONALD L. JACKSON,
494 Masten Avenue,
Buffalo, New York 14209,
Representing Self.

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

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DONALD L. JACKSON,

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THE PEOPLE OF THE STATE OF NEW YORK,

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PETITION FOR WRIT OF CERTIORARI TO COURT OF APPEALS, STATE OF NEW YORK

(a) Reference to Reports of Opinions.

People v. Donald L. Jackson.

(b) Statement of Jurisdictional Grounds.

The judgment of the Erie County Court was entered December 14, 1966. Judgment of Court of Appeals of New York State was entered January 10, 1967. Jurisdiction of this court is invoked under Title 28, U. S. C., sec. 1257 (3).

(c) Question Presented for Review.

Does the police have the right to prevent dissuade, exert unlawful coercion, threat and intimidation against defendant witness while in the court room prepared to testify for

defendant, and instruct witness not to testify for defendant.

May the police question defendants witnesses, while in the court prepared to testify.

May the police question defendant when making arrest without informing defendant that defendant is entitled to counsel.

May the District Attorney withhold information relative to the matter being tried if the information is against the plaintiff and can be used to help prove the defendant innocent?

May the defendant receive a fair trial if his witnesses has been intimidated even if the witness attempts to testify.

May the court use the basis for a guilty verdict because a witness runs out of court and does not testify for defendant after being threatened by police officers who are officers of the court and told not to testify.

May the defendant receive a fair trial if the presiding judge is prejudiced and the court.

May the defendant receive a fair trial if he is deprived the right to have witnesses in his favor and to cross examine all parties having anything to do with bringing about the arrest warrant.

May the defendant receive a fair trial if the District Attorney fails to bring and make available the police officer claiming that he served the summons which was basis for issuing of the Warrant for defendants arrest, whereas the defendant would have the opportunity to examine the police officer.

May the defendant receive a fair trial if the court does not advise me of my right to rely on the presumption of

innocence and the right to refrain from taking the stand in my own defense. The record shows at page 43 line 8 that I was definitely in the witness stand before the court instructed me concerning my rights.

A police officer is an officer of the court he is part of the court his actions reflects that of the court. May the defendant receive a fair trial when part of the court has shown bias against the defendant.

(d) Constitutional Provisions Involved.

FIRST AMENDMENT Abridging the freedom of speech or of the press. FIFTH AMENDMENT Due Process Clause, SIXTH AMENDMENT, FOURTEENTH AMENDMENT The Equal protection of the law section.

(e) Statement of the Case.

That on September 21, 1965, I was tried before the Honorable Joseph J. Sedita, in the City Court of Buffalo on the charge of Assault Third Degree, brought by a Bertha O. Beecher. At the time of my arraignment, which was the same morning, I was told that the warrant was executed after I failed to obey a summons. I had not been served a summons and had no knowledge that a summons had been taken out for me.

The police officer that had claimed served the summons was not present whereas I could examine him under oath in view of the fact the warrant was issued based upon the police officer claim that the summons had been served. Judge Sedita knew me and was well aware of the fact that I campaigned openly against him and publicly denounced him and his brother Frank A. Sedita Mayor of the City of Buffalo. When Mayor Frank A. Sedita appointed Judge Joseph J. Sedita his brother to the City court bench.

My efforts along with others Judge Joseph J. Sedita was defeated. The second time Mayor Sedita appointed his brother Joseph J. Sedita Judge, I opposed him with the same vigor, however this time he was elected. Prior to this I worked for the New York State Commission of Investigation as an Under-cover agent which exposed high amount of crime and corruption in Mayor Frank A. Sedita's administration. I then wrote the book 100 Million Dollars Prostitution, Crime and Corruption. Chapter Corruption in Law Enforcement, told about, police being lax in enforcement of gambling laws, gamblers paying off police officers, Bookmaker's request for permission to operate from a police Lieutenant, while another police Lieutenant operated $300 to $500 a day bookmaking operation from police headquarters. The City Court Chapter, expose how difficult for a person to obtain a fair trial in City Court of Buffalo and this is not something new its been going on for years, and many poor Negroes like myself do not have money and cannot get equal justice as White people. The Chapter dealing with the Mayor, that is Mayor Frank A. Sedita, the brother of Joseph J. Sedita the trial Judge. The entire book dealt with corruption in the Sedita's administration. The book was written in 1961 and the revised edition was written in 1962 it is still being sold today. The police officer had instructed one of my witness not to testify because I had written this book about the police, and the police officers are officers of the court, therefore the judge too was prejudiced which was contributing factor that defendant didn't receive a fair trial. My rights were violated 1st Amendment Abridging the freedom of speech or of the press. 5th Amendment Due Process Clause and the 6th Amendment the right to face my accuser, and have witnesses in my favor and cross examine my accuers. The 14th Amendment the equal protection of the law section.

AFFIDAVIT OF MRS. BARBARA HILTON.

State of New York,
County of Erie,
City of Buffalo. } ss.:

MRS. BARBARA HILTON, of 326 Fox Street, Buffalo, New York, being duly sworn; deposes and says:

That she is the witness listed in the record on page 32 line 21, BARBARA CARTHON, that she was married October 8, 1966.

That I worked part time after school for Donald L. Jackson and on September 21, 1965, I went to City Court of Buffalo to testify what I knew of the charge against Donald L. Jackson and to tell what I knew of the plaintiff Bertha Beecher, whom I knew was a member of the Hi-Y Club, that met at the YMCA, and she was kicked out of the club because she had been black-mailing men and drunk considerable amount of alcoholic beverages. The club members of the Hi-Y Club, was losing their members because parents had stop their children from attending meetings of the Hi-Y Club because Bertha Beecher and her girl friend Betty Herbert were members and both had the reputation of Black-mailing men and drunk considerable amount of alcoholic beverages. The club members decided to save their club so they voted 100% to kick both Bertha Beecher and Betty Herbert out the same time.

That I arrived in City Court with Mrs. Esther Jackson, Miss Cathy Geary a 22 year University of Buffalo Student that also worked part time for Mr. Jackson and all three of us were witnesses. All three of us taken seats about three seats from the front row, and I noticed a police officer and Bertha Beecher the plaintiff, and Mr. Julian F. Kubiniec, the Assistant District Attorney enter a private

room off from the court room after about twenty five minutes they all came out together and the police officer was joined with another police officer and they taken seats directly in front of us. The Court Room was empty with the exception of about three other persons, and there were plenty of seating space. That the police officers immediately made themselves known that they were police officers and commence to question us by asking if we were witnesses for Mr. Jackson, Mrs. Jackson stated yes. They both then commence to talk to Cathy Geary and they asked Cathy Geary to come and sit with them. Cathy Geary moved to the next row and sit between each of the police officers, I could see both police officers talking to Cathy Geary about ten minutes later I notice Cathy Geary face extremely red and her head hanging and a few second she got up and hurried out of the Court Room. Mrs. Jackson and I went to see what was wrong and found Cathy Geary on the first floor her face extremely red she was shaking extremely afraid. Mrs. Jackson asked Cathy Geary what was wrong and Cathy Geary stated that the police officers had told her "Not to testify for Mr. Jackson, for if she did she would get herself into serious trouble."

I knew Cathy Geary was a college student and was about 22 years old, and for her to act this way and be afraid of the police I commence to realize that the police didn't want Mr. Jackson to have witnesses and I commence to feel that something then may happen to me if I testified. I was only 16 years old and I become extremely afraid to testify for fear that the police may become angry and do something to me. We asked Cathy why didn't the police want her to testify? Cathy stated that Mr. Jackson had written a book about the police department and they didn't like it. I told Mrs. Jackson, that I was to afraid to testify now, however she told me that the police had no right to

bother me or any of her husbands witnesses. I went back to the court room, where Bertha Beecher was still on the witness stand. I was called to testify and I was trembling and my memory became blank for fear that the police were going to do something to me because I testified for Mr. Jackson. I was so nervous that the judge saw it. The Judge asked me page 37 line 6, was I a reluctant witness? I was so afraid and shaking that I really didn't know what was going on. This whole condition came about to me being afraid after seeing the state of condition of Cathy Geary after the police finished talking to her. Seeing the intimidation by the police to Cathy Geary was too much for me to stand. The District Attorney or no members of the Police Department has questioned me or made any investigation of this preventing a witness from attending or testifying.

That I have read the Trial Record, and I find different Answers that the records has, than the answers that were given in the Court by Mr. Jackson on over three different occasions.

MRS. BARBARA HILTON.

Sworn to before me this
31st day of January, 1967.
Huby M. Meadows, Sr.,
Notary Public, State of New York.
Qualified in Erie County.
My Commission Expires March 30, 1968.

AFFIDAVIT OF ESTHER M. JACKSON.

State of New York,
County of Erie,
City of Buffalo. } ss.:

ESTHER M. JACKSON, being duly sworn; deposes and says:

That she is the witness listed on page 23 line 13, of the trial Record.

That two members of Buffalo Police Department came to our home with a warrant for Assault Third Degree for my husband sworn to by Bertha Beecher. The two police officers questioned my husband for over twenty minutes. The two police officers neither one informed my husband Donald L. Jackson, that he did not have to answer and that he had the right to counsel. The two police officers stated that Bertha O. Beecher, had stated that Mr. Jackson was her boyfriend and that she was his outside girl friend, and that Mr. Jackson attempted to run her down with his car after they had some disagreement.

That the following day after the two girls came to work Cathy Geary and Barbara Carthon, I decided to go over to talk with the Beechers. We arrived at their home and found Bertha O. Beecher, her two sisters, one was pregnant and separated from her husband and the other was married and from her own statement stay away from her husband half of the time. I asked Mrs. Beecher how this Assault taken place. Before Mrs. Beecher could answer the daughter that was pregnant, shouted that Mrs. Jackson I hate your husband. I asked what my husband ever done to her she stated nothing and went on to say that she was riding the bus to work one day and saw Mr. Jackson standing on the corner talking to three girls. I asked her is this why you hate my husband she replied yes. The

entire visit Bertha Beecher sat with her head hung down and wouldn't say a word, her sisters were extremely insulting and used terrible language, and when Bertha had anything to say she turned her head and hung it down it was obvious she was not telling the truth.

My husband was not given a fair trial his witnesses were intimidated and they were being dissuaded threaten and coerced to prevent them from testifying for Donald Jackson.

That after I arrived in City Court, and was seated I saw a police officer and the prosecutor, with Bertha O. Beecher enter a room off from the Court Room, after about 20 or 25 minutes the three came out of the room and the police officer with another police officer came and sat directly in front of where I and Barbara and Cathy were seated. The one officer I recognized him to be a police officer. The court room had many vacant seats for there were less than 10 people in the court room. They let us know they were police officers and commence to ask questions. They asked if we were witnesses for Mr. Jackson, and when I replied yes they then commence to talk to Cathy Geary. After talking awhile they asked Cathy to come and sit with them. Cathy sat in the center with a police officer seated on each side. I couldn't hear everything, but I did hear one of the Police officers say to Cathy Geary "If you testify you will get yourself into trouble". Shortly afterwards Cathy gets up and left the court room very fast. Barbara and I went to see what happen to Cathy and found her on the first floor. Cathy's face was red she looked liked a scared rabbit, she was very nervous. I asked what's wrong what's happened? Cathy said I cannot testify for your husband. I asked why? Cathy replied that her uncle was an high ranking police official and that my husband had written a book about corruption

in the police department and if she testified for me it would be embarrassing for her uncle who was a police officer, I will be getting myself into trouble. I asked who told you this? Cathy replied that the two police officers upstairs. Cathy left the Court House almost running. On page 37 of the Record line 13 to 23, while my husband was attempting to find Cathy Geary, one of the police officers went over and commence to talk and laugh with the Assistant District Attorney Julian F. Kubiniec. My husband did not know what had happen to Cathy, and I was afraid to tell him for fear it would upset him, and he might say something and the judge would become more angry toward him, the judges prejudice was clearly visible against my husband all during the trial. After the trial I told my husband what had occurred while Bertha O. Beecher was testifying. I told him that the police had told Cathy Geary not to testify and if she did she would get into serious trouble, because you had written a book regarding corruption in the police department and the police didn't want her to testify.

That evening about midnight my husband and I was about to get into bed, we heard a knock at the door and I looked out and saw Cathy Geary. We put our clothes on and went to the door. Cathy came in she looked afraid. She said that she was sorry that she didn't testify and was sorry that my husband was convicted. She said that she was afraid to testify because she feared that something would happen to her for the two police officers had warned her that she would get herself in serious trouble if she testified for Donald Jackson. Cathy went to say that the police is angry because your husband wrote that book about corruption in the police department.

During the trial I tried my best to testify, however I did but I was affected by what Cathy Geary said about

being threaten if she testified and how scared she appeafed to be.

The following morning after the trial my husband went to the Federal Bureau of Investigation and filed Civil Rights violation charge.

My husband did not receive a fair trial, in that the judge was prejudice, my husband witnesses were coerced, threaten and intimidated and dissuaded from attending the trial and testifying. The trial record is not an accurate record of the answers and questions. There are several questions in the record with different answers than what was stated during the trial, especially in my husband's testimony.

ESTHER M. JACKSON.

Sworn to before me this
11 day of February, 1967.
Sherman L. Walker,
Notary Public, Erie County, New York.
(Seal)

AFFIDAVIT OF DONALD L. JACKSON.

State of New York,
County of Erie,
City of Buffalo. } ss.:

DONALD L. JACKSON, being duly sworn, deposes and says:

That he is the defendant listed in the trial record.

My Constitutional rights were violated before trial during my arrest and during my trial in City Court. I was deprived protection under 5th Amendment of United States Constitution (Miranda v. Arizona, 384 U. S. 436), in that the police questioned me without informing me of the right to have counsel.

I also was further deprived my rights under 1st amendment, 5th Amendment, 6th Amendment, 9th Amendment and the 14th Amendment of United States Constitution.

I was denied the right to confront my accusers.

That the sworn information made by Bertha Beecher page 3 line 9 of the record stated she was an employee, and page 14 line 19 to 23 of the record and page 15 line 1 to 10 of the record. Page 3 Line 9 claims plaintiff was an employee and pages 14 line 19-23 and page 15 line 1-10 she testifies that she never made such statement. If this is part of the information I should have had the opportunity to be confronted by the individual who accused me of this. I was further deprived of my rights in that the information should be sufficient alone without having to have the plaintiff to testify what she meant. The Defendant cannot properly prepare for trial if he has to wait until the plaintiffs takes the stand to clarify the information.

That I was denied the right to have witnesses in my favor because my witnesses were unlawfully coerced, threaten, intimidated and prevented and dissuaded from testifying in the behalf of the defendant.

In that Cathy Geary a 22 year University of Buffalo student that resided at 104 Woodcrest, West Seneca, New York, was threaten, coerced, intimidated and prevented and dissuaded by members of the Buffalo Police Department who are officers of the court from testifying for the defendant. This threaten and intimidation by the Buffalo Police Department also intimidated my other witnesses to the point that it affected their memory and one witness just couldn't testify. Barbara Carthon, became scared because of this harassment by the police and was so frighten lost her memory. Barbara was shaking and the judge notice her and asked her on page 37 line 6 of the

record if she was a reluctant witness? And on page 57 line 20 to 22 the judge used this witness to form his basis of the guilty verdict. Because of the condition that this intimidation put Barbara in I was unable to examine her on many material of the background of the plaintiff such as plaintiff being kick out of a club because she and another girl was blackmailing men. There were at least 10 or 15 other material facts that defendant was unable to bring out because of the shaky condition of Barbara.

That after police officers had threaten and intimidated and dissuaded my witness Cathy Geary from testifying the judge used the disappearance of that witness from court as basis to find me guilty page 57 lines 22, 23 and page 58 line 1. The judge gave me opportunity to have adjournment to bring my witness back to court. I refused because I was not aware of the fact that my witness was threaten and intimidated and dissuaded by police officer who are officers of the court by threatening her if she testified. The defendant should not be forced to have to continual to bring his witnesses back to court if the witnesses appear ready and willing to testify and an officer of the court threatens and intimidates the witness, the defendant cannot obtain a fair trial and the defendants constitutional rights have been deprived him.

That this trial was conducted that whereas the defendant was guilty until he proved his innocence. When it should have been the defendant is presumed innocent until proven guilty. There was one prosecuting witness, the defendant taken the stand and denied all charges and his wife who was present also taken the stand and denied that the assault taken place, the court was still demanding additional proof from the defendant, that he was innocent.

That there was insufficient evidence for conviction of Assault third degree.

The testimony of Bertha Beecher on Page 42 line 1 to 9, is false. I was not aware of this until about a week after the trial when her girl friend telephone my home and stated that Bertha and her family had at least gotten even with you and I said for what, they replied for what you wrote in your magazine about Bertha, and they went on to state that in a column what we carried the local gossip under the heading "It Just Wouldn't Do To Tell", that I had a story about Bertha B. of Butler Street making a married man pay her $15.00 per week or she was going to tell that he was the father of her coming child. Charles A. of Humboldt Parkway, is scared stiff, and he has been paying 6 months and no sign of a child. I had forgotten that this story appeared in one of our editions.

That page 13 lines 10, 11, plaintiff stated that she arrived at defendants place at 4:00 and got home about 5:30. The District Attorneys office suppressed evidence that clearly showed that the plaintiff had been lying. The Job Opportunity office closes at 5:00, however they had received a telephone call from Bertha O. Beecher the plaintiff prior to 4:00 that she had been assaulted. The District Attorney or Assistant District Attorney had this information and suppressed it because it clearly established that this whole affair was a planned hoax.

That the following day after my trial I went to the Federal Bureau of Investigation and filed charges of my civil rights being violated by police officers interfering and threaten my witnesses.

That the same day after the trial had ended Cathy Geary came to my home about 12:00 midnight still very scared and apologized because she did not testify and stated that the police officers had told her that she would get into serious trouble if she testified for me because that I had

written a book on corruption of the Buffalo Police Department.

That the trial record has different answers listed than what I gave in the court room while I was testifying. The Record is not accurate.

DONALD L. JACKSON.

Sworn to before me this
11 day of February, 1967.
Sherman L. Walker,
Notary Public, Erie County, New York.

(f) The Raising of Federal Questions.

Petitioner filed Motion for a New Trial November 1, 1965, in the City Court of Buffalo, and it was denied. Petitioner's brief was filed in the Erie County Court citing violations of my Constitutional rights and insufficient evidence for conviction of Assault Third Degree. The Honorable County Court Justice Frederick M. Marshall affirmed the conviction without giving any opinion and ignored all facts, evidence and constitutional questions presented for a reversal or granting of a new trial. My petition to Court of Appeals of the State of New York for permission to appeal to that court was denied by Honorable Stanley H. Fuld, Chief Judge of Court of Appeals, January 10, 1967.

(g) Reason for Granting the Writ.

1. That I being a Negro one of the most fundamental bulwarks of a citizen's liberty against the threat of unrestrained police action is found in the Bill of Rights of both the United States and New York State Constitu-

tion. By arousing the displeasure of members of the police department and the court and politicians doing acts which are entirely legal they can easily change any given circumstances legal to unlegal whereas person become subject to fines and imprisonment for doing acts which were entirely innocent when done. Such abuse gives the police and the court great power in crushing everyone speaking out against them justly. All citizens of the United States are protected fully by the Constitution. It is apparent that protection of the Constitution of the United States principles are not endowed upon the Negroes that are compelled to stand trial in the City Court of Buffalo. The Constitution of United States is the foundation of all laws of this country.

The defendant is clothed with the presumption of innocence, until proven guilty, of which reasonable doubt is an essential element; therefore, the accused must be proven guilty beyond all reasonable doubt.

My Constitutional rights were violated in that I did not receive a fair trial, I did not have the opportunity to have witnesses in my behalf because of unlawful coercion, threat and intimidation by members of the Buffalo Police Department who are officers of the court. Penal Law 2441 of New York State make it a crime to preventing or dissuading witness from attending, under this section making it a crime to intimidate a witness in a pending New York Criminal case from appearing therein.

In the case of People v. Leonard, 1960 24 Misc. 2d 300 and 197 N. Y. S. 2d 209 stated critical issue the party's intent at time he exerted the unlawful coercion, threat and intimidation and not the state of mind of the witness, and once the illegal and unlawful attempt to intimidate is established, witness state of mind is irrelevant so that the

fact that the witness may have had every intention of testifying would not prevent completion of crime of preventing or dissuading a witness to appear.

2. That the police questioned me without informing me the right to have counsel. Miranda v. Arizona, 384 U. S. 436.

3. That the infringement upon petitioner's Federal Constitutional Rights, interfering with petitioner's witnesses, having been tried by a prejudice judge, petitioner being denied equal protection under the law. Denied the rights of 6th Amendment, 14th Amendment, 1st Amendment and 5th Amendment. Cite the case of State of California vs. Mrs. Ruth Elizabeth Chapman and Thomas Leroy Teale, which United States Supreme Court ruled February 21, 1967, that when Federal Constitutional rights are violated the burden will be on the state to prove beyond a reasonable doubt that the infringement did not contribute to the verdict. Page 37 Line 6 page 57 of the trial record line 20 and 21, 22, 23 and page 58 line 1, the trial judge taken note of Barbara Carthon condition and called her a reluctant witness because she was frightened because of intimidation to my other witness Cathy Geary, and also the judge noted that the witness which the police threaten that she would get into trouble if she testified the judge stated that the witness that disappeared. Directly because of these violations of my Constitutional rights was the fact that a guilty verdict was rendered by the trial justice. A defendant is presumed innocent until proven guilty beyond a reasonable doubt the defendant had 2 witnesses plus himself there was only the plaintiff that testified and trial judge discounted the plaintiff and his witnesses and the court was still demanding defendant to bring in additional proof that defendant is innocent.

Conclusion

On the basis of the foregoing facts, authorities, it is hereby respectfully submitted that certiorari be granted to give petitioner rights granted to other citizens under State and Federal Constitution, a fair trial, the right to have witnesses in defendants behalf and to cross examine my accusers and to have the presumption of innocent until proven guilty beyond a reasonable doubt.

Respectfully submitted,

DONALD L. JACKSON,
Petitioner.

Appendix "A"

JUDGMENT OF CONVICTION AND SENTENCE BY HON. JOSEPH J. SEDITA

CITY COURT—COUNTY OF ERIE, CITY OF BUFFALO

THE PEOPLE OF THE STATE OF NEW YORK,
against
DONALD JACKSON.

Docket No. 91803.
Part I.

November 8, 1965

The above named Defendant having been brought before the Hon. Joseph J. Sedita, a Judge of the City Court of Buffalo, charged with 244 P. L.

And the above named ..... having been thereupon duly convicted upon a plea of guilty.

And the above named Deft. having thereupon pleaded not guilty and (~~demanded~~) (failed to demand) a jury and having been thereupon duly tried and upon such trial duly convicted, It is adjudged that

6 months E. C. Pen. S. S.
Indefinite Probation

Dated at the City of Buffalo, the 28th day of March, 1967.

JOSEPH J. SEDITA,
(Seal) *Judge of the City Court of Buffalo.*

Appendix "B"

JUDGMENT OF AFFIRMANCE ON APPEAL FROM SPECIAL SESSIONS OF COUNTY COURT, COUNTY OF ERIE

At a Term of the County Court of Erie County, held at the County Hall, in the City of Buffalo, New York, on the 9th day of December, 1966.

Present: Hon. Frederick M. Marshall,
Erie County Judge, Presiding.

STATE OF NEW YORK

COUNTY COURT—County of Erie

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,

v.

DONALD L. JACKSON,
Appellant.

D. A. 19-384.
Viol. Sec. 244 P. L.
Buffalo City Court
Hon. Joseph J. Sedita.
City Ct. Docket #91803.

The appeal to this Court from the judgment of conviction in the above entitled action having been regularly brought on for argument on the merits at this term of Court, and argument having been duly had thereon, Mr.

Arnold Weiss having appeared on behalf of the appellant and Mr. Arthur G. Baumeister for the District Attorney of Erie County having appeared on behalf of the respondent, and after due deliberation, it is

ADJUDGED, that the judgment of conviction herein be, and the same hereby is, affirmed.

FREDERICK M. MARSHALL,
County Judge, Erie County.

Granted this 9th day of
December, 1966.
H. H. Webber,
Special Deputy Court Clerk.

Sir:

You will please take notice that a Judgment, of which the within is a copy, was duly entered in the Office of the County Clerk of Erie County on the 14th day of December, 1966.

MICHAEL F. DILLON,
District Attorney of Erie County,
200 Erie County Hall,
25 Delaware Avenue,
Buffalo, New York 14202.

Appendix "C"

CERTIFICATE DENYING LEAVE

STATE OF NEW YORK

COURT OF APPEALS

Before: Hon. Stanley H. Fuld, *Chief Judge*

THE PEOPLE OF THE STATE OF NEW YORK,
Respondent,

against

DONALD L. JACKSON,
Defendant-Appellant.

I, STANLEY H. FULD, Chief Judge of the Court of Appeals of the State of New York, do hereby certify that, upon application timely made by the above named appellant for a certificate pursuant to § 520 of the Code of Criminal Procedure, and upon the record and proceedings herein, there is no question of law presented which ought to be reviewed by the Court of Appeals and permission to appeal is hereby denied.

Dated at Albany, New York, January 10, 1967.

STANLEY H. FULD,
Chief Judge.

FILE COPY

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PETITION FOR REHEARING

DONALD L. JACKSON,
494 Masten Avenue,
Buffalo, New York 14209.
Representing Self.

BATAVIA TIMES, LAW PRINTERS,
BATAVIA, N. Y.

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ON PETITION FOR A WRIT OF CERTIORARI TO COURT OF APPEALS, STATE OF NEW YORK.

PETITION FOR REHEARING

The petitioner herein respectfully moves this Court for an order (1) vacating its denial of the petition for writ of certiorari, entered on May 29, 1967, and (2) granting the petition. As grounds for this motion, petitioner states the following:

1. The Grant of Certiorari in Giles v. Maryland Oct. Term 1966 386 U. S. 66.

This Court held in this case Non-disclosure of evidence by prosecutor amounts to a denial of due process it must be

such as in material and capable of clearing or tending to clear the accused of guilt or of substantially affecting the punishment to be imposed in addition to being such could reasonably be considered admissible and useful to the defense 239 M. D. 458.

While the instant case involves the prosecutor withholding evidence that would prove that the defendant being tried was being lied on. Record page 13 line 10, 11, plaintiff stated that she arrived at defendant's place at 4:00 and got home about 5:30. The prosecutor suppressed evidence that clearly showed that the plaintiff had been lying. The Job Opportunity Office closes at 5:00, however they had received a telephone call from Bertha O. Beecher, the plaintiff prior to 4:00 that she had been assaulted, this was prior to Bertha O. Beecher's own testimony of ever seeing the defendant. Page 13 of the Record Line 10, 11, "I guess I went there about something after 4:00 and I got home about 5:30." Prosecutor had this information prior to trial.

Page 13 of the Record Line 20 to 23, plaintiff testified that "When I got to the Corner he told me not to tell anyone Page 14 Line 6 He got in his car and he followed me to the house and told me not to tell anyone, to keep my business to myself. According to her testimony she didn't stop any place and in fact that she arrived at the defendant office after 4:00 and according to the Job Opportunity Office they received a telephone call from Bertha O. Beecher that she had been assaulted prior to 4:00. The Prosecutor also had information that an automobile would have to drive the wrong way on over two streets in order to follow the plaintiff, defendant would have to drive over 1 mile to get back to the corner to follow plaintiff. The distance from defendant's office to the corner is only two houses located between the intersection and the office. Defendant would have

to proceed down Masten to Northland Ave. (Balcon St.) is one way traveling the opposite direction turning left on Northland to Main St. traveling ¾ mile on Main St. before being able to turn left on Michigan and then proceeding left on E. Ferry St. then driving half mile on E. Ferry to reach the intersection of E. Ferry and Masten Ave., car would be facing East. The only other way I would have to turn left on Northland up and over to Waverly up Waverly to E. Ferry and west on E. Ferry to Masten Ave., car would be facing west going the opposite direction of plaintiff.

Traveling Masten to Main Route is over 2 mile drive back to E. Ferry St. and Masten, car would be facing East of Ferry St.

Traveling Masten to Northland to Waverly to E. Ferry St., to Masten Ave. my car would be facing west, she would be traveling the opposite direction. This distance is over 1 mile.

Plaintiff testified when she reached the intersection, he told me not to tell anyone Page 14 line 6. He got in his car and followed me to the house. Defendant would have had driven 1 mile one way or 2 miles the other route and plaintiff only had walked two houses in this time? To follow plaintiff home would require driving wrong way on one way street on Masten and Butler.

Page 42 Line 1 to 8 of the record The Court: asked "Did you have any contact with the defendant before that day?" Bertha O. Beecher answered "No". The Court: Do you know him at all? The Witness: No, only I seen him the day he took my picture.

Line 7 the Court asked Bertha O. Beecher, "Did you or your family have any difficulties with him? Her Answer

Line 8 "No." Bertha O. Beecher the plaintiff deliberately lied, she was kicked out of the Hi-Y Club, because I wrote a story about her blackmailing men and drinking alcoholic beverages excessive prior to her bringing these charges and her parents were angry at me for I had frequently exposed Mr. Beecher and others that have had no education over the 8th Grade paying 4 other ministers $10. each to become ordain ministers, whereby then they can purchase goods at a discount and ride the plane and train at reduced rates. Mr. Beecher has never been pastor of a church.

I have been strong advocate against dope peddlers and users of narcotics and Bertha O. Beecher's brother has been arrested and convicted as a dope peddler and user, her brother was in the court room encouraging her along.

This Court held October Term in the case of Miller v. Pate, Warden, 386 U. S. 1.

More than 30 years ago this Court held that the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence. Mooney v. Holohan, 294 U. S. 103.

There has been no deviation from that established principle, Napue v. Illinois, 360 U. S. 264. Pyle v. Kansas, 317 U. S. 213, Alcorta v. Texas, 355 U. S. 28. There can be no retreat from that principle here Black v. U. S., 385 U. S. 26. This entire Assault Charge by Bertha O. Beecher is a vicious lie, her entire testimony was lies. Page 13 Line 13 of the Record plaintiff testified that I know his car because it has a campaign sign on it. A copy of the receipt from the printer shows that the campaign signs were not printed and delivered until the following day.

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DATE August 12th 1965

NAME Mr. Donald Jackson
ADDRESS 494 Masten Avenue

8 12	To 50 Campaign Signs (2 Colors)	$17.50

Paid in full
J. R. Garrett

(2). This Court held in Parker v. Gladden, 385 U. S. 363, Bailiffs' statements to Jurors violated the command of the Sixth Amendment, made applicable to the State by the Fourteenth, that the accused shall enjoy the right to an impartial jury and to be confronted with the witnesses against him.

That I was denied the right to have witnesses in my favor because my witnesses were unlawfully coerced, threaten, intimidated and prevented and dissuaded from testifying in the behalf of the defendant.

In that Cathy Geary a 22 year old University of Buffalo student that resided at 104 Woodcrest, West Seneca, New York, the niece of the Deputy Police Commissioner of City of Buffalo, was threatened, coerced, intimidated and prevented and dissuaded by members of the Buffalo Police Department who are officers of the Court from testifying for the defendant. This threaten and intimidation by the Buffalo Police in the Court Room intimidated my other witnesses to the point that it affected their memory and one witness Barbara Carthon, became scared because of this

harassment by the police in the Court Room because of her fright she lost her memory. Barbara was shaking and the Judge noticed her and asked her on page 37 Line 6 of the record if she was a reluctant witness? And on page 57 line 20 to 22 the Judge used this witness to form his basis of the guilty verdict. Because of the condition that this intimidation place Barbara, I was unable to examine her on many material fact of the background of the plaintiff, that the police officer who are officers of the Court in the Court Room threaten and intimidated and dissuaded my witness Cathy Geary from testifying the Judge used disappearance of Cathy Geary to form his guilty verdict Page 57 Line 22, 23 and page 58 Line 1 of the Record. The Judge gave me opportunity to have adjournment to bring my witness back to Court. I refused because I was not aware of the fact that my witness was threaten and intimidated and dissuaded by police officers. The police were angry because I wrote a book about corruption in police department. The action of the police officer violated by Constitutional right.

This Court held in the case of Hoffa v. United States, 385 U. S. 293 that Hoffa was wrong to tamper with a Juror, if Hoffa is wrong to tamper with a Juror then the Police officer who are officer of the Court are equally guilty and my rights under the 6th Amendment of United States Constitution were violated and that I did not receive a fair trial.

In the case of People v. Leonard, 1960, 24 Misc. 2d 300 and 197 N. Y. S. 2d 209, stated critical issue the party's intent at time he exerted the unlawful coercion, threat and intimidation and not the state of mind of the witness, and once the illegal and unlawful attempt to intimidate is established, witness state of mind is irrelevant.

This Court held in the case State of California v. Mrs. Ruth Elizabeth Chapman and Thomas Leroy Teale, 386 U. S. 18 that when Federal Constitutional rights are violated the burden will be on the state to prove beyond a reasonable doubt that the infringement did not contribute to the verdict.

Conclusion

I did not receive a fair trial for I was tried by a prejudice Judge I was denied equal protection under the law. Denied the right to have witnesses.

There was insufficient evidence for a conviction of Assault 3rd Degree. I was convicted on sole testimony of Bertha O. Beecher the plaintiff.

The defendant taken the stand and denied all charges and Mrs. Esther Jackson who was present testified no assault taken place on the premises against Bertha O. Beecher.

I was sentenced to 6 months E. C. Pen S. S. and Indefinite Probation. The Maximum sentence is 1 year or $500. fine or both. While Indefinite Probation here carries a Probationary sentence from 1 to 3 years. Plus probation can be extended to double this period to include 6 years period. This sentence is the most unusual that has taken place in the City Court of Buffalo. This sentence of Indefinite Probation carries a greater sentence than the statute allows.

We, the undersigned, each for himself and/or herself, hereby states and affirms as follows:

1. We know Donald L. Jackson, Sr., of 494 Masten Avenue, Buffalo, New York; we have known him and his family for a substantial period of time; we are familiar with the community in which he lives, works, does business,

and carries on his varied activities; we are familiar with his reputation for truth, veracity, morality, religious observance, chasity, honesty, integrity, and social responsibility; we believe that his reputation in each of these instances is of the highest and finest in the respective communities with which we are familiar; and we would be willing to testify to the foregoing upon any trial or re-trial of Mr. Jackson on the alleged crime of assault, third degree or the complaint of Bertha Beecher:

Name	*Address*
Kingsley Williams	776 Auburn Avenue, Buffalo, N. Y.
James M. Young	190 Campus Drive, Buffalo 26, N. Y.
Lynn J. Dane	316 Bernhardt Dr., Snyder 26, N. Y.
Justin G. Dane	316 Bernhardt Dr., Snyder 26, N. Y.
Starryl Durnell	117 Hawle St., Bflo. 13, New York
Hattie B. Spidell	179 Brunswick, Buf. 8, N. Y.
Earl C. Knight	26 Woodland Terrace, Buffalo 25, N. Y.
Leonard W. Champagne	1592 Bailey Ave., Buff. 12, N. Y.
Izetta Barnes	340 Winslow Ave., Buffalo, N. Y.
Sam Miller	134 Waverly St., Buffl., N. Y.

For the foregoing reasons and for the reasons set forth in the original petition, petitioner prays that this Court will reconsider his application for issuance of a writ of certiorari.

Respectfully submitted,

DONALD L. JACKSON,
494 Masten Avenue,
Buffalo N. Y.,
Representing Self.

Certificate of Counsel.

I am the petitioner, I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 58(2).

DONALD L. JACKSON,
Representing Self.